

December 19, 2018

Via E-Mail

Mr. Bart A. Sponseller
Deputy Division Administrator
Division of Environmental Management
Wisconsin Department of Natural Resources
P.O. Box 7921
Madison, WI 53707-7921

Re: Container Life Cycle Management LLC – St. Francis Location

Dear Mr. Sponseller:

The DNR, through its inconsistent permitting positions, written correspondence, and representations to elected officials and the media, has created unnecessary confusion regarding the permitting for the Container Life Cycle Management LLC (“CLCM”) St. Francis operation.

CLCM first applied for authority to construct the RTO on February 14, 2018. In a letter dated March 2, 2018, the DNR indicated that the RTO would be exempt from needing a construction permit under NR 406.04(2), Wis. Admin. Code. Relying on this exemption, CLCM entered into a contract to fabricate and install the RTO. On June 26, DNR issued a letter requesting additional information to determine whether the St. Francis facility required an after-the-fact major source (“PSD”) permit, calling into question the rationale underlying the DNR’s March 2 letter. After CLCM raised concerns regarding the continued validity of the waiver in light of the June 26 letter, the DNR sent a follow-up letter on July 20, 2018 confirming that the exemption cited in the March 2 letter was still valid. After this letter was received, CLCM provided additional information to the DNR and CLCM’s consultant met with the DNR’s permit writer to discuss finalizing the permit on September 14, 2018. During this process CLCM and DNR agreed in principle on the parameters under which a permit could be issued promptly. After that meeting, the DNR changed permit writers and the entire process stalled.

After more than a month of no action being taken by the DNR on the permit application, CLCM requested another meeting with the DNR which occurred on November 7, 2018 in Madison. At that time the DNR shifted its position again and stated that CLCM must obtain a PSD permit (which could take an extended period of time for issuance) or accept a lower emission limit in order to obtain the permit. CLCM expressed its willingness to accept the lower emission limit, the DNR and CLCM agreed on the emission limit, and both the DNR staff and CLCM

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proceeded forward on this basis. On November 29, CLCM's consultant provided a revised application to specifically address these "final" concerns of the DNR with the lower limit.

Now, the Department's December 14, 2018 letter once again changes course and asserts that an after-the-fact PSD permit is required, the current permit application is off the table and that the facility must submit Best Available Control Technology ("BACT") analyses for sources, including the RTO. This entirely changes the permitting approach for this location; we disagree with this change and will discuss it with the agency at a later time.

The DNR's March 2 position that the facility can operate the RTO under an exemption in NR 406.04(2) **is not** consistent with the DNR's position on December 14 that the facility needs to go through a PSD analysis and submit BACT information. Because the exemption in NR 406.04(2) is not available when a source is subject to BACT. As we have previously explained, NR 406.04(2) is only available if "the source is not subject to a best available control technology or lowest achievable emission rate requirement..."

CLCM has been working in good faith with the DNR since the permit application for the RTO was filed in February, 2018. The company has purchased and installed the equipment at a cost in excess of \$2 million. However, the DNR has provided multiple, conflicting directions regarding the permit application and the operation of the RTO. We again request a meeting to understand the DNR's seemingly continuous position shifting with respect to the permit requirements. If you have no objections, we would also suggest we include the Mayor of the City of St. Francis, Ken Tutaj, and State Representative Christine Sinicki, both of whom have expressed an interest in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Linda E. Benfield'.

Linda E. Benfield

cc: Dan Meyer, DNR Secretary
Jessica Kramer, Esq.
James Bonar-Bridges, Esq.
Bonnie Cosgrove, Esq.
Erik Olsen, Esq.